

Boston Redevelopment Authority

LAND ACQUISITION POLICY STATEMENT - SOUTH END URBAN RENEWAL PROJECT

Introduction

In order to carry out the approved urban renewal plan for the South End Urban Renewal Project, the Boston Redevelopment Authority is obligated, among other things, to acquire, in whole or in part, real property including land, buildings, structures and other improvements, appurtenances, rights-of-way, easements, and other rights and interests.

Basic Objectives of Real Estate Acquisition Program

In carrying out the real estate acquisition program, the Authority will endeavor:

- (1) To protect impartially the interests of all concerned, to pay fair prices to owners, and to prevent the payment of prices that are excessive.
- (2) To make every reasonable effort to acquire each property by negotiated purchase before instituting eminent domain proceedings against the property.
- (3) To utilize available acquisition methods and practices in such a way as to minimize hardship to both property owners and tenants.

Timing of Real Estate Acquisition Activities

With certain exceptions*, no real property will be acquired by the Authority prior to the effective date of a land and grant contract with the Department of Housing and Urban Development (HUD). However, negotiations may be begun for the acquisition of properties on which HUD has concurred in the acquisition price. Options to purchase may be obtained, provided that such options may not be accepted and property may not be acquired until the contract with the Federal government is signed.

After the effective date of the contract, the Authority, in accordance with the staging considerations outlined below, will acquire with the least possible delay all real property in the project area designated to be acquired under the provisions of the approved urban renewal plan.

Basic Method for Real Estate Acquisition

Property to be acquired by the Authority is designated on a map which is part of the urban renewal plan. Property so designated will be acquired either (1) through purchase, conveyance, and a

*Tax title properties and other surplus properties owned by the City may be acquired for project offices and for rehabilitation demonstrations.

confirmatory taking through the exercise by the Authority of the power of eminent domain wherever agreement with the property owner as to price can be secured, or (2) through condemnation proceedings instituted by the Authority, through the exercise of the power of eminent domain, wherever after a reasonable period of time agreement with the property owner as to price cannot be secured.

After any condemnation proceedings have been instituted, the Authority will continue to seek an agreed-upon settlement providing for full payment for the property which has been acquired, and will also pay within 60 days of the taking the amount of the award included in the order of taking as a pro-tanto payment pursuant to Chapter 79 of the General Laws, as amended.

Protection of Interests of Owners and Occupants

In order to minimize hardships to property owners, occupants and persons employed on the premises, the Authority will:

- (1) Take appropriate steps to ensure, insofar as possible, that all property owners and tenants are provided full information regarding the

contemplated property acquisition and are given as much advance notice as possible of the time the Authority expects to take possession of the property.

- (2) Endeavor to obtain an option of purchase on each property as soon as feasible after beginning acquisition activities within the project area.
- (3) Agree with the property owner on the date for closing and the date for delivery of possession within the limits imposed by the staging schedules for the clearance, improvement, and disposal of project land.

Staging of Real Estate Acquisition Activities

In general, the staging of real estate acquisition by the Authority will be governed by staging schedules for the disposal of project land for project improvements, site clearance, building demolition, and the commencement of relocation activities.

Real estate acquisition activities will be carried out in such a way as to enable the Authority to acquire title to a given parcel of property no less than 120 days prior to the date on which the Authority will require possession.

The Authority, in order to protect the best interests of both owners and occupants, will consider, if requested to in writing, the acquisition, in advance of staging schedules, of the property of any owner who desires to relinquish title.

Staging of Relocation Activities

Occupants will be interviewed at the earliest feasible time after the effective date of the Federal contract for the purpose of determining as early as possible the relocation requirements for each stage of the project.

Individual business concerns and families and individuals will be given as much notice to vacate as reasonably possible. The date of notice and the date by which any individual business concern or family or individual will be required to have vacated the property which it occupies will be established after consideration of (1) its particular relocation needs and possibilities, and (2) the general requirements for the staging of project development activities including real estate acquisition as outlined above.

Every effort will be made by the Authority to permit as many businesses and families and individuals as possible to remain in their present locations until other accommodations are available to them. The Authority will not require any business or family or individual lawfully occupying property acquired within the

project area to surrender possession of the property before the expiration of at least 120 days from the date of acquisition.

Determination of Fair Market Value

Two independent appraisers are employed by the Authority to make appraisals for each property to be acquired for the purpose of determining fair market value. Wherever special appraisals are required in determining value of machinery and other equipment which is part of the real estate or in determining projected gross sales of a business establishment, appraisers with special training and skills will be employed by the Authority. After the appraisals are completed, the Authority will establish a maximum value for the property that is consistent with the two appraisals and any supporting special appraisals. This figure together with the supporting appraisals is submitted to HUD for concurrence. After inspection of the property by a representative of HUD, a final value will be approved by HUD.

Negotiations

After concurrence by HUD in a maximum acquisition price for any given parcel of property, the Authority will commence negotiations for the purchase of the property in question.

A negotiator under contract with the Authority and acting under the supervision of the Real Estate Officer or the General Counsel will

make contact with the owner or a representative who has been duly authorized in writing to act on the behalf of the owner.

The following matters may be discussed with the General Counsel, the Real Estate Officer or the Authority's negotiator: (1) the price to be paid by the Authority, and (2) those real estate elements included in the purchase.

In accordance with Federal law, the Authority will make every reasonable effort to acquire each property by negotiation before instituting eminent domain proceedings against the property. The Authority will make a diligent, conscientious effort to induce the owner to accept a fair and proper price for his property.

Relocation and Other Financial Matters

The following matters may be discussed with the Authority's relocation specialist assigned to the project in question: (1) relocation payments to be made for moving and storage of personal property, (2) relocation adjustment payments, (3) payments for losses of property, and (4) small business displacement payments.

The following matters may be discussed with the Real Estate Officer: use and occupancy charges and other policies approved by the Authority regarding property management.

The following matters may be discussed with the Project Director or his designated representative: (1) acquisition and taking-of-possession schedules affecting the property in question, (2) the relocation program for the project, and (3) the availability of other properties as relocation sites in the project area.

Acquisition

If the effort to acquire a property by negotiation is successful, arrangements for the transfer of title and payment for the property will then be made. An option of purchase is entered into that provides for (a) date for transfer of title, i.e., the closing, (b) purchase price, (c) provision for discharge of any mortgages and removal of any encumbrances on the property, (d) waiver of all rights to contest the amount of damages payable for the property, and (e) date for transfer of possession, with respect to the latter, no person lawfully occupying property will be required to surrender possession without at least 90 days' written notice from the Authority of the date on which possession will be required.

If that effort is unsuccessful, the Authority will make a final offer to the owner in writing. This offer will include an invitation to discuss the acquisition of the property, provide for a reasonable period of time for the owner to

accept or reject the invitation, and will include notification of the date on which the Authority intends to institute eminent domain proceedings if agreement cannot be reached on the purchase of the property within the specified time period.

Pro-ration of Real Estate Taxes and Other Charges

In general, the option will provide for the pro-ration, as of the date of the closing, of property, sewer, and water taxes, rents and deposits collected by the owner from tenants, and prepaid property expenses.

Closing Expenses

The Authority at the closing will pay for all Federal and State documentary stamps, recording fees, and in some cases, the penalty assessed for prepayment of any outstanding mortgage.

Eminent Domain Proceedings

If the attempt to negotiate a purchase of property is unsuccessful, the Authority will initiate eminent domain proceedings to acquire the property in accordance with the provisions of Chapter 79 of the General Laws, as amended, (or in the event property is purchased through negotiation, a confirmatory taking may be made).

The eminent domain procedure followed by the Authority is as follows:

- (1) The Authority adopts an order of taking which describes the property to be acquired and the amount of damages authorized to be paid.
- (2) Upon recording of this order in the Registry of Deeds, title to the property vests in the Authority and the right to damages vests in the former owner and other persons entitled thereto.
- (3) The Authority has the power to amend the award prior to the payment thereof by reason of a change in ownership or value of the property before the right to damages therefor has become vested or for other good cause shown.
- (4) Payment of the amount of damages awarded must be made either within sixty (60) days after the order of taking is recorded or within fifteen (15) days after demand by the former owner at the election of the Authority. Such election is made before the notice of taking is sent to the owner.
- (5) Notice is sent to every person, including every mortgagee of record, whose property has been

taken or who is otherwise entitled to damages on account of such taking. The notice contains the following information:

- (a) announcement of time and place at which the person can obtain payment of damages awarded;
 - (b) purpose and extent of taking;
 - (c) the time within which the person may petition the Superior Court for Suffolk County to determine his damages.
- (6) Damages awarded by the Authority may be accepted in full settlement of the right of the party to damages with respect to the taking of the property or may be accepted as payment pro tanto pursuant to Chapter 79, Section 8A without prejudice to or waiver of surrender of any right to claim a larger sum by proceeding before the Superior Court. If damages assessed in court are less than the damages awarded by the Authority and received by the party as a pro tanto payment, the excess, together with interest on the excess from the date of the assessment by the court, and court costs, are payable to the Authority. If the damages assessed in

court are more than the damages awarded by the Authority and received by the party as pro tanto payment, the difference, together with interest on the difference from the date of the award of the Authority and court costs, are payable by the Authority.

- (7) No person in possession of property shall be required to vacate any portion of such property which is being used by him as a dwelling place or place of business at the time the order of taking has been given to him until 120 days from the date notice is sent to him of the taking.

In addition, under the 1949 Housing Act, as amended, additional Federal requirements are imposed which overlap the requirements of the State. They are as follows:

The Authority will not require any owner to surrender the right to possession of his property until the Authority pays to the owner (a) the agreed purchase price arrived at by negotiation, or (b) in any case where only the amount of payment to the owner is in dispute, not less than seventy-five percent (75%) of the appraised fair value as approved by the Authority

and concurred in by the Department of Housing and Urban Development and, further, will not require any person lawfully occupying property to surrender possession without at least ninety (90) days' written notice from the Authority of the date on which possession will be required.

If the property is acquired through eminent domain proceedings, the 90-day notice to be given to owner-occupants and tenants shall not be given prior to the date on which the Authority acquires title to the property.

Pro-ration of Settlement Proceeds Between Owner and Lessee

In some instances where business concerns rent their present quarters, the tenant under the terms of his lease may have an interest in the proceeds of a property settlement between the owner and the Authority. In such situations, the owner may have to share the proceeds of the property settlement with his tenant or lessee.

In order to insure consideration of the rights of the tenant or lessee, the Authority will require a release of the lease prior to final settlement with the owner. If it is impossible to

secure such a release because of the inability of owner and tenant to agree on the tenant's claim, the matter of compensation to each party may be a matter left for determination by a court.

Inspection of Property

Immediately before the time that payment is made for a particular property or the title thereof is vested in the Authority, a representative for the Authority will make an inspection of the property to determine:

- (1) That the property conforms substantially to the property as appraised.
- (2) That there is no evidence of work or labor having been performed or materials furnished in connection with any improvement to the property that might entitle anyone to a lien on the property.
- (3) That, after title passes to the Authority, there will be no outstanding rights of possession or interest superior to the rights of the Authority except easements or other interests that do not have to be acquired to carry out the project.

MEMORANDUM

July 21, 1966

TO: Boston Redevelopment Authority

FROM: Edward J. Logue, Development Administrator

SUBJECT: SOUTH END - LAND ACQUISITION POLICY STATEMENT

Subsequent to submission of the South End Part I of the Application for Loan and Grant, Federal regulations were issued requiring that for each project for which a contract for Federal assistance had not been executed, there be adopted a "Land Acquisition Policy Statement."

A proposed Policy Statement, reflecting the BRA's established procedures and conforming with Federal requirements, is attached. It is recommended that it be adopted, and submitted to the Federal authorities as a supplement to the South End Loan and Grant Application.

An appropriate vote follows.

VOTED: There is hereby adopted for the South End Urban Renewal Project, the Land Acquisition Policy Statement submitted under cover of the Development Administrator's memorandum of July 21, 1961; and the Development Administrator is hereby authorized to submit said statement to the Regional Director as Code 222(2)(k) of the South End Application for Loan and Grant.

